

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| GUN OWNERS OF AMERICA, INC, | : | COURT OF COMMON PLEAS, |
| | : | PHILADELPHIA COUNTY |
| and | : | |
| | : | MAY TERM, 2021 |
| GUN OWNERS FOUNDATION, | : | Civil Action No. 00884 |
| | : | |
| and | : | |
| | : | |
| DAVID COTUGNO, | : | |
| | : | |
| and | : | |
| | : | |
| ROSS GILSON, | : | |
| | : | |
| and | : | |
| | : | |
| VERN LEI, | : | |
| | : | |
| and | : | |
| | : | |
| MICHAEL STROLLO; | : | |
| | : | |
| <i>Plaintiffs,</i> | : | |
| | : | |
| v. | : | |
| | : | |
| CITY OF PHILADELPHIA, | : | |
| | : | |
| <i>Defendant.</i> | : | |
| | : | |
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NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant, City of Philadelphia, timely removes this action from the Court of Common Pleas of Philadelphia County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania, on the following

grounds:

1. On May 10, 2021, Gun Owners of America, Inc, Gun Owners Foundation, David Cotugno, Ross Gilson, Vern Lei, and Michael Strollo (“Plaintiffs”) filed a Complaint with the Philadelphia Court of Common Pleas, with the associated civil action number 210500884, against the Defendant, City of Philadelphia (“Defendant”). A true and correct copy of that Complaint is attached here as Exhibit A, and was provided to Defendant on May 12, 2021.

2. By their Complaint, Plaintiffs allege that a City of Philadelphia Ordinance, Bill No. 200593 (“Ordinance”), restricting the manufacture of firearms using three-dimensional printers and the transfer of unfinished frames or receivers within the City of Philadelphia, is preempted under Pennsylvania state law limiting the City’s regulation of legal firearms, infringes on the Pennsylvania Constitution’s Article I, Section 21 right to bear arms, and is unconstitutionally vague. Compl., Ex. A, ¶¶ 33-55. Plaintiffs’ preemption claim is premised on the representation that the activities regulated by the Ordinance are otherwise lawful under federal law. *Id.* ¶¶ 28, 30-31. Plaintiffs’ claim necessitates analysis of the Gun Control Act of 1968 and the definition of a firearm under 18 U.S.C. 921(a)(3). Plaintiffs’ Complaint also requires the Court to determine the boundaries of the United States Constitution. *See id.* at FN 9.

3. 28 U.S.C. § 1331 states that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

4. The United States District Court for the Eastern District of Pennsylvania has original jurisdiction over the claims alleged by Plaintiff, pursuant to 28 U.S.C. § 1331.

5. Defendant is represented by the undersigned counsel and consents to the removal of this civil action from the Court of Common Pleas of Philadelphia County to the United States District Court for the Eastern District of Pennsylvania.

6. True and correct copies of this Notice of Removal with accompanying exhibit and separate Notice to State Court of Filing of Notice of Removal, a copy of which is attached hereto as Exhibit “B,” will be served upon counsel for Plaintiffs and filed with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania, in accordance with the provisions of 28 U.S.C. § 1446(d).

7. In filing this Notice of Removal, Defendant does not waive any available defenses in this action.

WHEREFORE, Defendant City of Philadelphia requests that the State Court Action, docketed at Docket No. 210500884 in the Court of Common Pleas of Philadelphia County, Pennsylvania, be removed from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

CITY OF PHILADELPHIA LAW DEPARTMENT
Diana P. Cortes, City Solicitor

Date: June 10, 2021

By: /s/ Danielle E. Walsh
BENJAMIN FIELD (PA ID No. 204569)
Divisional Deputy City Solicitor
DANIELLE E. WALSH (PA ID No. 312438)
Deputy City Solicitor
Affirmative and Special Litigation Unit
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Phone: (215) 686-0464

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that, on the date set forth below, I served a true and correct copy of the foregoing Defendants' Notice of Removal and accompanying documents upon all counsel of record via ECF system and the foregoing document is available for viewing and/or downloading pursuant to the Court's ECF system and is served pursuant to FRCP Rule 5(b) and Local Civil Rule 5.1.2.

BY: /s/ Danielle E. Walsh
Deputy City Solicitor

Dated: June 10, 2021